

Congress of the United States
Washington, DC 20515

August 29, 2019

The Honorable Peggy E. Gustafson
Inspector General
U.S. Department of Commerce
1401 Constitution Avenue N.W.
Washington, DC 20230

Dear Inspector General Gustafson:

We write to request a comprehensive review of the Western Pacific Sustainable Fisheries Fund (WPSFF or the Fund) at the National Oceanic and Atmospheric Administration (NOAA) and report on lapses in transparency and accountability and possible waste and abuse of government funds.

Background

The WPSFF was established under the Magnuson Stevens Fishery Conservation Act (MSA).^[1] Under its governing statute, the WPSFF provides funds from Pacific Insular Area fishery agreements and certain enforcement actions to implement marine conservation plans, which are also authorized by MSA.^[2] MSA provides unusual latitude to the Secretary of Commerce with regard to the WPSFF, such as allowing for the expenditure of funds “without appropriation or fiscal year limitation.”^[3] This degree of discretion heightens the need for transparency and accountability.

MSA directs NOAA to provide WPSFF funds to the Western Pacific Regional Fishery Management Council (Wespac), which is then directed to use these funds to support conservation efforts of the U.S. Pacific territories and Hawai‘i.^[4]

Congressional Oversight Efforts

Both the House and Senate have expressed concerns about NOAA’s oversight of the Fund. The responses from these inquiries have only raised further concerns.

^[1] See 16 USC 1824(e)(7)

^[2] See 16 USC 1824(e)(4)

^[3] See 16 USC 1824(e)(7)

^[4] See 16 USC 1824(e)(7)(A), (C)

On July 27, 2017, the Senate Appropriations Committee included the following language in Committee Report 115-139, accompanying S. 1662, the Appropriations Bill for the Departments of Commerce and Justice, Science and Related Agencies:

Western Pacific Sustainable Fisheries Fund.—The Committee directs NOAA to provide, within 90 days of enactment of this act, a complete account of the last 5 years of funding activity of the Western Pacific Sustainable Fisheries Fund, and any other fund or grant program controlled or managed by the Western Pacific Regional Fishery Management Council, including the use of such funds to influence administrative processes in any State or Territory. NOAA is further directed to conduct such accountings annually and to publish the reports online.

The scope of this instruction was broadened during conference negotiations, as reflected in the Joint Explanatory Statement of the Managers, which was adopted by the Congress on March 21, 2018:

Fishery Management Council Fund Report. -The agreement expands the reporting requirement in the Senate report to include all Fishery Management Councils. NOAA shall work with the Committees and the Councils to establish the appropriate scope and format for this report.

NOAA's report, transmitted to the Congress on August 29, 2018, was incomplete. A copy of the report is attached to this letter. NOAA provided supplemental information on September 25, 2018, in a spreadsheet, which is also attached.

The information NOAA has provided raises significant questions that merit comprehensive review by the Office of the Inspector General. For example, a one-person company, Mirae Info Design LLC, owned by a Hawai'i real estate agent named Sunny Hospital, received approximately \$95,000 in contracts in 2016 to perform economic analysis for fisheries. Notably, Ms. Hospital is married to Justin Hospital, a NOAA economist at the Pacific Islands Fisheries Science Center, who works closely with Wespac, raising questions about actual or perceived conflicts of interest.

Current Wespac Councilmember Dean Sensui's company, Hawai'i Production Associates, received a contract for \$56,450 in 2014. Similarly, current Wespac Councilmember John Gourley's company, Micronesian Environmental Services received a contract for \$35,400 in 2013 and another \$35,400 contract in 2014. Although there is some level of disclosure in the paperwork filed by Mr. Sensui and Mr. Gourley with the Council, a proper analysis regarding the propriety of these contracts is impossible because of the lack of detail provided to Congress.

A spreadsheet provided by NOAA identifies other contracts which raise red flags because they fail to disclose the contractor or subcontractors involved in providing the services. For example, an unidentified researcher received a contract for \$102,700 in 2016 to research bigeye tuna; an unidentified instructor at Moanalua High School in Honolulu received approximately \$10,000 in 2016 to teach a course for high school students on marine fisheries; and unidentified researchers at Hawai'i Pacific University, the Hawai'i Institute of Marine Biology, the University of Hawai'i and the University of Guam received research contracts in excess of \$200,000 for vaguely

described research projects. In addition, the spreadsheet does not identify the specific subcontracts nor the subcontractees nor amounts, making it impossible to review the level of detail necessary to provide a full understanding of the use of the Fund.

The U.S. House of Representatives has also raised significant concerns during its oversight. In a May 1, 2019, oversight hearing in the House Natural Resources Subcommittee on Water, Oceans, and Wildlife entitled, "The State of Fisheries," Wespac Executive Director Kitty Simonds testified before the Subcommittee. In responses to Subcommittee questions for the record, Ms. Simonds did not respond directly to questions about the Mirae Info Design LLC and Micronesian Environmental Services grants or other items. The lack of candor intensifies concerns about the administration of federal funds. A copy of Ms. Simonds' responses to the questions for the record is attached.

Audit Request

Based on congressional oversight revealing NOAA's apparent failure to properly oversee the WPSFF, we request your immediate attention to ensure the Fund is being operated openly and correctly and that federal funds are not exposed to fraud, waste, and abuse.

We therefore urge you to take the following actions related to the Fund, dating back to at least 2012:

1. Determine which internal controls to prevent conflicts of interest, if any, were used in awarding contracts funded through the WPSFF;
2. Conduct a detailed audit of WPSFF's expenditures;
3. Determine if any WPSFF expenditures violated applicable ethical rules and standards, including conflicts of interest involving Wespac employees and Wespac councilmembers;
4. Determine whether goods and services contracted from WPSFF proceeds were in fact delivered;
5. Provide a list of all contractors and subcontractors who received WPSFF proceeds together with specific payments; and
6. Review the contents and delivery of the attached contract between the Commonwealth of the Northern Mariana Islands Department of Land and Natural Resources and a contractor funded by the WPSFF.

In addition, we urge you to take the following actions related NOAA's oversight of the Fund:

1. Determine whether NOAA followed all public transparency requirements for contracts funded by the WPSFF;
2. Determine whether NOAA properly oversaw the award and management of WPSFF funding; and
3. Determine whether there are any conflicts of interest involving NOAA employees as it relates to the expenditure of WPSFF funds.

We look forward to working with you to help ensure these federal are properly protected from fraud, waste, and abuse. If you have any further questions on this urgent matter, please do not hesitate to contact Lora Snyder of the House Natural Resources Committee at Lora.Snyder@mail.house.gov or (202) 225-6065 and Anthony Ching in Congressman Ed Case's office at Anthony.Ching@mail.house.gov or (202) 225-2726.

Sincerely,



RAUL M. GRIJALVA
Chairman
House Committee on Natural Resources



JARED HUFFMAN
Chairman
Subcommittee on Water, Oceans, and Wildlife
House Committee on Natural Resources



ED CASE
Member of Congress



GREGORIO KILILI CAMACHO SABLAN
Member of Congress

Enclosure